UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/712,597 | 11/13/2003 | Peter Wung | 1023-232US01 | 9010 |

28863 7590 12/09/2004

SHUMAKER & SIEFFERT, P. A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL, MN 55125

| EXAMINER | |
|---|---|
| GREENE, DANA D | |
| **ART UNIT** | **PAPER NUMBER** |
| 3762 | |

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/712,597 | WUNG, PETER | |
| | Examiner | Art Unit | |
| | Dana D. Greene | 3762 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *13 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-38* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-38* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *13 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *20031113*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## *Claim Rejections – 35 U.S.C. §102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. To be an "anticipation" rejection under 35 U.S.C. §102, the reference must teach every element and recitation of the Applicants' claims. Rejections under 35 U.S.C. §102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. Thus, the reference must clearly and unequivocally disclose every element and recitation of the claimed invention. More specifically, a claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Here, independent claims 1 and 22 stand rejected under 35 U.S.C. §102(b) as being anticipated by Titus (U.S. Patent No. 4,404,974, hereinafter "Titus"). Dependent claims 11-16, 18, 19, and 31-35 also stand rejected under 35 U.S.C. §102(b) as being anticipated by Titus. Titus is considered to disclose:

A conventional transducer for sensing the blood pressure of the patient (*see* col. 2, ln. 60-62, Titus). This transducer of Titus correlates to the sensor used to measure patient parameters in the claimed invention. In this connection, Titus teaches an apparatus that provides the ability to display the actual input

values of heart rate and systolic blood pressure as interpreted from the analog voltage or read from the databus depending on the type of monitor in question (*see* col. 1, ln. 67 – col. 2, ln. 3, Titus). As in the claimed invention, Titus teaches values displayed in a first display and values displayed in a second display (*see* col. 2, ln. 3-6, Titus). Titus clearly discloses the first and second display monitors to display the patient parameters (*see* col. 2, ln. 3-6, Titus).

***Claim Rejections – 35 U.S.C. §103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Dependent claims 2-3, 17, 23-24, and 38 are rejected under 35 U.S.C. §103(a) as being unpatentable over Titus in view of Winkler (U.S. Patent No. 5,345,362, hereinafter "Winkler"). Referring to claims 2-3 and 23-24, Titus is considered to disclose the claimed invention as discussed above, under the anticipatory rejection, except for the claimed perpendicular configuration of the

first and second display monitors. However, Winkler discloses a display screen, which can be readily adjusted into a plurality of viewing angles including a perpendicular configuration (*see* col. 3, ln. 62-68, fig. 8, Winkler). Further, Winkler teaches a display screen that is movable from a closed position in which it is substantially parallel with an upper surface of the apparatus, to any plurality of open positions wherein the display can be viewed by the operator (*see* abstract, Winkler). It would have been obvious to one of ordinary skill in the art to combine the teachings of Titus with the perpendicular and parallel configurations of Winkler for the purpose of plane arrangement. Referring to claims 17 and 38, Titus is considered to disclose the claimed invention as discussed above, under the anticipatory rejection, except for the claimed display that is a component of a portable or laptop computer or device. However, Winkler discloses a portable computer apparatus, which has a dual-pivot articulating display screen, which can be readily adjusted into a plurality of angles and easily transported (*see* col. 3, ln. 62-68, Winkler). It would have been obvious to one of ordinary skill in the art to combine the teachings of Titus with the laptop computer or portable electronic device of Winkler for the purpose of electronic information mobility.

5. Dependent claims 4-9 and 25-29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Titus in view of Daynes (U.S. Patent No. 6,754,526 B2, hereinafter "Daynes"). Titus is considered to disclose the claimed invention as discussed above, under the anticipatory rejection, except for the claimed housing and cover configuration. However, Daynes discloses a defibrillator

including a door or cover which conceals manual user commands, such that upon initiating a motion associated with the door, such as activation of a latch or opening of the door, the defibrillator is put into the manual mode, while revealing the manual commands (*see* col. 2, ln. 60-67, Daynes). It would have been obvious to one of ordinary skill in the art to combine the teachings of Winkler and Titus to arrive at the claimed invention.

6. Dependent claims 10, 20-21, 30, and 36-37 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Titus in view of Kirchgeorg (U.S. Patent No. 6,327,497, hereinafter "Kirchgeorg"). Referring to claims 10 and 30, Titus is considered to disclose the claimed invention as discussed above, under the anticipatory rejection, except for the claimed handle adjacent to the first and second display monitors. However, Kirchgeorg discloses a handle for carrying the unit to a victim or patient allowing the user to look only at the face of the unit to view the various displays for the different systems (*see* col. 2, ln. 46-52, Kirchgeorg). It would have been obvious to one of ordinary skill in the art to combine the teachings of Titus with the handle on the top part of the medical device as disclosed in Kirchgeorg for the purpose of transporting the device. Referring to claims 20-21 and 36-37, Titus is considered to disclose the claimed invention as discussed above, under the anticipatory rejection, except for the external defibrillator and diagnostic emergency medical device. However, Kirchgeorg discloses an emergency oxygen unit and oximetry system combined with an automatic external defibrillator (*see* col. 3, ln. 16-23, Kirchgeorg). It would have been obvious to one of ordinary skill in the art to combine the

teachings of Titus with the external defibrillator and diagnostic device as disclosed in Kirchgeorg for the purpose of transporting the device.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dana D. Greene whose telephone number is (571) 272-7138. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dana D. Greene

George Manuel
Primary Examiner

***